



THE ATTORNEY GENERAL OF TEXAS

JOHN BEN SHEPPERD
ATTORNEY GENERAL

AUSTIN 11, TEXAS

August 3, 1954

Mr. Gordon Shearer
Texas State Parks Board
Austin, Texas

Opinion No. MS-146

Re: Authority for the State
Parks Board to contract
for concessions in Palo
Duro Canyon State Park
without charge for the
concession right.

Dear Mr. Shearer:

Your recent request for an opinion from this office presents the following situation:

An installation is needed in the Palo Duro Canyon State Park which can supply gasoline, emergency automobile supplies and wrecker service for the convenience of the motorists. No person has been found by the Board who would be willing to pay for a concession right. In the light of the Trust Indenture outstanding, may a contract be entered by the Board and a concessionaire whereby no charge is made by the Board for the above-named concession right?

Section 5 of Chapter 64, Acts of the 50th Legislature, 1947, codified as Article 6077j of Vernon's Civil Statutes, provides for the collection of an entrance fee, anticipates concession contracts, and permits other charges to be made and collected from the patrons of the Park. All funds thus derived from the operation of the Park are there dedicated (and such dedication is carried through in the Trust Indenture) to the retirement of the indebtedness outstanding and for the maintenance and operation of the park facilities.

The tenor of the Trust Indenture specifically indicates that all the income, rents, and royalties are to be considered in the computation of the amount which is payable to the trustee. The broad terms there used are easily understood when it is considered that the bonds secured by the Indenture were issued to replace obligations in default.

The statute and the Indenture make provision for charges to be made and make a determination of the percentage of such

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charges to be forwarded to the trustee, but no provision is made for the granting of free concession or service rights. Indeed, such a provision would not be in harmony with the scope and intent of the entire financing of the Palo Duro Canyon State Park improvements since the only security of the bondholders is the interest in the revenue derived from the operation of the Park.

Therefore, your question is answered in the negative.

Very truly yours,

JOHN BEN SHEPPERD
Attorney General of Texas

By /s/ Elbert M. Morrow
Assistant

EMM/wb:rt